

JOURNAL OF THE HOUSE.

Wednesday, July 17, 2013.

Met according to adjournment at twelve o'clock noon, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Guests of the House.

Marian T. Ryan and Martha M. Walz.

During the ceremony for the qualification of Representative Jay Livingstone of Boston, the Speaker introduced Middlesex County District Attorney Marian T. Ryan and former Representative Martha M. Walz, who were attending the session to witness the swearing-in of Mr. Livingstone.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Patrick O'Rourke.

Resolutions (filed by Mr. Winslow of Norfolk) congratulating Patrick O'Rourke on receiving the Eagle Award of the Boy Scouts of America;

William O'Rourke.

Resolutions (filed by Mr. Winslow of Norfolk) congratulating William O'Rourke on receiving the Eagle Award of the Boy Scouts of America;

Sean Pazurchek.

Resolutions (filed by Mr. Winslow of Norfolk) congratulating Sean Pazurchek on receiving the Eagle Award of the Boy Scouts of America; and

Sean Turner.

Resolutions (filed by Mr. Winslow of Norfolk) congratulating Sean Turner on receiving the Eagle Award of the Boy Scouts of America;

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Winslow, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

Boston,—alcoholic beverages.

By Mr. Coppinger of Boston, a petition (accompanied by bill, House, No. 3575) of Edward F. Coppinger and others (with the approval of the mayor and city council) relative to certain licenses for the sale of alcoholic beverages in the city of Boston. To the committee on Consumer Protection and Professional Licensure.

Avon,—public works.

By Mr. Galvin of Canton, a petition (accompanied by bill, House, No. 3576) of William C. Galvin and Brian A. Joyce (by vote of the town) that the town of Avon be authorized to establish a department of public works;

By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 3577) of Sarah K. Peake (by vote of the town) for legislation to amend the charter of the town of Harwich; Harwich,—charter.

By Representative Scibak of South Hadley and Senator Rosenberg, a joint petition (accompanied by bill, House, No. 3578) of John W. Scibak and Stanley C. Rosenberg (by vote of the town) relative to the inspector of plumbing and gas fitting in the town of South Hadley; and South Hadley,—plumbing and gas fitting inspector.

By Mr. Vieira of Falmouth, a petition (accompanied by bill, House, No. 3579) of David T. Vieira (by vote of the town) that the town of Mashpee be authorized to convey an interest in certain land to the town of Barnstable; Mashpee,—land.

Severally to the committee on Municipalities and Regional Government.
Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Conroy of Wayland, a petition (subject to Joint Rule 12) of Thomas P. Conroy relative to pesticide application. Pesticide,—application.

By Mr. Cutler of Duxbury, a petition (subject to Joint Rule 12) of Josh S. Cutler relative to the removal of vegetation by public utility companies. Public utilities,—vegetation.

By Mr. D’Emilia of Bridgewater, a petition (subject to Joint Rule 12) of Angelo L. D’Emilia for legislation to establish a sick leave bank for Brian Schwenk, an employee of the Department of Correction. Brian Schwenk,—sick leave.

By Messrs. Fattman of Sutton and Peterson of Grafton, a petition (subject to Joint Rule 12) of Ryan C. Fattman and George N. Peterson, Jr., that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land in the town of Sutton to Tim and Tammy Mahoney. Sutton,—Tim and Tammy Mahoney.

By Representative Hunt of Sandwich and Senator Wolf, a joint petition (subject to Joint Rule 12) of Randy Hunt and Daniel A. Wolf that the West Barnstable Fire District be authorized to fund library services for the Whelden Memorial Library. West Barnstable Fire District,—Whelden Library.

By Ms. Reinstein of Revere, a petition (subject to Joint Rule 12) of Kathi-Anne Reinstein, Robert A. DeLeo and Anthony W. Petruccelli for legislation to designate a certain bridge in the city of Revere as the Rita Singer Bridge. Revere,—Rita Singer Bridge.

Severally, under Rule 24, to the committee on Rules.

Paper from the Senate.

The Senate Bill authorizing the city of Lynn to establish a program for enforcement against illegal dumping (Senate, No. 1784) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. Lynn,—dumping.

Engrossed Bills.

Engrossed bills

Authorizing the town of Freetown to designate a check-off on its tax bills (see Senate, No. 1404) (which originated in the Senate); and Engrossed bills.

Relative to contributory health insurance in the town of Mattapoisett (see House, No. 2445, changed) (which originated in the House);

Engrossed
bills.

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Recess.

Recess.

At four minutes after twelve o'clock noon, on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House recessed until half past twelve o'clock; and at one o'clock P.M. the House was called to order with the Speaker in the Chair.

Special Communication.

The following communication, together with returns of votes and schedules therein referred to, was received from the Secretary of the Commonwealth, to wit:—

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY
STATE HOUSE, BOSTON 02133

July 17, 2013.

To the Honorable House of Representatives:

Returns of
votes for
Representative
in the
Eighth Suffolk
District.

I have the honor to lay before you the returns of votes cast at the special election held in this Commonwealth on the twenty-fifth day of June, 2013, for Representative in the General Court, 8th Suffolk District, together with schedules showing the number of ballots which appear to have been cast for each person voted for.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the House of Representatives, as required by the Constitution.

Very truly yours,

WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

The communication was read; and, there being no objection, it was placed on file.

Order.

On motion of Mr. Kaufman of Lexington,—

Governor
notified.

Ordered, That a special committee of the House be appointed to wait upon His Excellency the Governor and inform him that Representative-elect Jay Livingstone of the Eighth Suffolk District is assembled in the Chamber of the House of Representatives and is ready to take the oaths and affirmations of qualification.

The Speaker then appointed Representatives Rushing of Boston, Michelwitz of Boston, Cole of Peabody, Orrall of Lakeville, Reinstein of Revere, Balsler of Newton, Harrington of Groton, Fox of Boston, Howitt of Seekonk, Haddad of Somerset and Ehlrich of Marblehead as the special committee of the House.

Subsequently Mr. Rushing of Boston, for the committee, reported that they had attended to the duties assigned to them, and that the Governor had stated that he would attend forthwith and administer the oaths of office.

Member Qualified.

Soon afterward His Excellency the Governor, Deval L. Patrick, accompanied by members of the Honorable Council came in; the oaths and affirmation required by the Constitution and laws was administered by the Governor to the member-elect then present, and was subscribed by him; after which His Excellency declared that Representative Livingstone was duly qualified to enter upon the discharge of his duties.

Representative Jay Livingstone,— qualification.

His Excellency the Governor and the Honorable Councillors present then departed the Chamber under escort of the Sergeant-at-Arms.

After brief remarks by Representative Livingstone, the Speaker assigned him to Seat No. 138.

Matter Discharged from the Orders of the Day.

Mr. Mariano of Quincy being in the Chair,—

The engrossed Bill relative to transportation finance (see House, No. 3535), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see House, No. 3544), was discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47, on motion of Mr. Dempsey of Haverhill.

Transportation finance.

The committee on Bills in the Third Reading reported that the amendment recommended by His Excellency be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 3580; and the report was accepted.

Pending the question on adoption of the amendment recommended by the Governor, Mr. Dempsey of Haverhill moved to amend it by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 3581.

After debate on the question on adoption of the further amendment (Mr. O'Flaherty of Chelsea being in the Chair), at four minutes after two o'clock P.M., on motion of Mr. Jones of North Reading, the House recessed until half past two o'clock; and at twenty-three minutes before three o'clock the House was called to order with Mr. Mariano of Quincy in the Chair.

Recess.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano of Quincy), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

Quorum,— yea and nay No. 153.

[See Yea and Nay No. 153 in Supplement.]

Therefore a quorum was present.

On adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 123 members voted in the affirmative and 31 in the negative.

Further amendment adopted,— yea and nay No. 154.

[See Yea and Nay No. 154 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the Governor's amendment.

Transportation
finance.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 44 (as printed in House document numbered 3581) the following section:

“SECTION 44A. Chapter 64A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, after section 7A, the following section:—

Section 7B. The sale of fuel to a city or town which having consumed the same for any municipal purpose shall be exempt from the excise established by this chapter.”

Point of
order.

Mr. Bradley of Hingham thereupon raised a point of order that the amendment offered by the gentleman from North Reading, et al, was improperly before the House for the reason that it went beyond the scope of the pending bill.

In answer to the point of order, the Chair (Mr. Mariano of Quincy) ruled that an examination of the amendment showed that it was in fact beyond the scope of the pending bill; and the amendment was laid aside accordingly.

Mr. Jones thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Hill of Ipswich.

The question was then put “Shall the decision of the Chair stand as the judgment of the House?”

Decision of
Chair
sustained,—
yea and nay
No. 155.

After debate on the appeal from the decision of the Chair, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 123 members voted in the affirmative and 30 in the negative.

[See Yea and Nay No. 155 in Supplement.]

Therefore the decision of the Chair was sustained.

Mr. Beaton of Shrewsbury and other members of the House then moved to amend the bill by striking out sections 48 and 49.

Point of
order.

Mr. Bradley of Hingham thereupon raised a point of order that the amendment offered by the gentleman from Shrewsbury, was improperly before the House for the reason that it purported to amend a portion of the bill that had been amended by the adoption of the further amendment of Mr. Dempsey of Haverhill.

In answer to the point of order, the Chair (Mr. Mariano of Quincy) stated that the text of the bill as inserted by the further amendment had amended section 49. He therefore ruled that the amendment offered by the gentleman from Shrewsbury was improperly before the House; and it was laid aside accordingly.

Mr. D’Emilia of Bridgewater and other members of the House then moved to amend the bill by striking out section 44.

Point of
order.

Mr. Bradley of Hingham thereupon raised a point of order that the amendment offered by the gentleman from Bridgewater, et al, was improperly before the House for the reason that it purported to amend a portion of the bill that had been amended by the adoption of the further amendment of Mr. Dempsey of Haverhill.

In answer to the point of order, the Chair (Mr. Mariano of Quincy) stated that the text of the bill as inserted by the further amendment had amended section 44. He therefore ruled that the amendment offered by the gentleman from Bridgewater, et al, was improperly before the House; and it was laid aside accordingly.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out section 43.

Mr. Bradley of Hingham thereupon raised a point of order that the amendment offered by the gentleman from North Reading, et al, was improperly before the House for the reason that it purported to amend a portion of the bill that had been amended by the adoption of the further amendment of Mr. Dempsey of Haverhill.

Point of order.

In answer to the point of order, the Chair (Mr. Mariano of Quincy) stated that the text of the bill as inserted by the further amendment had amended section 43. He therefore ruled that the amendment offered by the gentleman from North Reading, et al, was improperly before the House; and it was laid aside accordingly.

Mr. Hunt of Sandwich and other members of the House then moved to amend the bill by striking out section 34, 37 and 38.

Mr. Bradley of Hingham thereupon raised a point of order that the amendment offered by the gentleman from Sandwich, et al, was improperly before the House for the reason that it purported to amend a portion of the bill that had been amended by the adoption of the further amendment of Mr. Dempsey of Haverhill.

Point of order.

In answer to the point of order, the Chair (Mr. Mariano of Quincy) stated that the text of the bill as inserted by the further amendment had amended sections 37 and 38. He therefore ruled that the amendment offered by the gentleman from Sandwich, et al, was improperly before the House; and it was laid aside accordingly.

Mr. Howitt of Seekonk and other members of the House then moved to amend the bill by striking out section 20.

Mr. Bradley of Hingham thereupon raised a point of order that the amendment offered by the gentleman from Seekonk, et al, was improperly before the House for the reason that it purported to amend a portion of the bill that had been amended by the adoption of the further amendment of Mr. Dempsey of Haverhill.

Point of order.

In answer to the point of order, the Chair (Mr. Mariano of Quincy) stated that the text of the bill inserted by the further amendment had amended section 20. He therefore ruled that the amendment offered by the gentleman from Seekonk, et al, was improperly before the House; and it was laid aside accordingly.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 31 (as printed in House document numbered 3581) the following section:

“SECTION 31A. Section 3 of chapter 62C of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting, in line 9, after the word ‘interpretation’, the following:— ; provided, notwithstanding the statutory effective date of any provision affecting the statutes referred to in section 2, the provision shall not take effect until the commissioner prescribes regulations and rulings pertaining to the provision.”

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 32 members voted in the affirmative and 122 in the negative.

Amendment rejected,—
yea and nay
No. 156.

[See Yea and Nay No. 156 in Supplement.]

Therefore the amendment was rejected.

Transportation
finance.

Mr. Hill of Ipswich and other members of the House then moved to amend the bill by adding the following section:

“SECTION 90. Notwithstanding section 5G of chapter 29 of the General Laws, for the purpose of covering the costs authorized in item 6122-1223 as authorized by chapter 18 of the acts of 2013, the comptroller shall transfer \$50,000,000 to the General Fund from the proceeds of capital gains income receipts exceeding \$1,000,000,000 that would otherwise be transferred to the Commonwealth Stabilization Fund. The comptroller, in consultation with the secretary of administration and finance, shall take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds. The comptroller shall provide a schedule of transfers to the secretary of administration and finance and to the house and senate committees on ways and means.”.

Amendment
rejected,—
yea and nay
No. 157.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Hill; and on the roll call 40 members voted in the affirmative and 114 in the negative.

[See Yea and Nay No. 157 in Supplement.]

Therefore the amendment was rejected.

Mr. Dempsey of Haverhill then moved that the vote be reconsidered by which the House adopted a further amendment (offered by him); and the motion to reconsider was negatived. The bill (House, No. 3535, amended) then was sent to the Senate for its action.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Next
sitting.

Accordingly, without proceeding to the matters in the Orders of the Day, at eighteen minutes after four o'clock P.M., on motion of Mr. Hill of Ipswich (Mr. Mariano of Quincy being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M., in an Informal Session.